

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Kimala Perry,

Plaintiff,

v.

Civil Case No. 15-11748

Jo Ann Stores, Inc.,

Sean F. Cox

United States District Court Judge

Defendant.

ORDER OVERRULING
OBJECTIONS TO RULE 68 OFFER OF JUDGMENT

This civil case was originally assigned to the Honorable Robert H. Cleland, but was recently reassigned to the undersigned for trial. (*See* Docket Entry No. 53).

In an Order issued on August 9, 2016, Judge Cleland ordered that the trial and jury selection in this action would commence on October 18, 2016. (Docket Entry No. 24).

On October 4, 2016, Defense Counsel filed and served a “Rule 68 Offer of Judgment,” stating that Defendant offers “to allow judgment to be entered against it in the amount of Fifty-Thousand (\$50,000), including costs and attorneys’ fees.” (Docket Entry No. 42).

Federal Rule of Civil Procedure 68 provides, in pertinent part, that “[a]t least *14 days* before *the date set for trial*, a party defending against a claim may serve on an opposing party an offer to allow judgment on specified terms, with the costs then accrued.” Fed. R. Civ. P. 68(a) (emphasis added).

Here, the date set for trial was October 18, 2016. (Docket Entry No. 24). Pursuant to Fed. R. Civ. P. 6, when the period of time is stated in days, as is the case with Rule 68, you count days, not hours. Defendant served the Offer of Judgment on October 4, 2016 – which was

14 days prior to the scheduled trial date. The fact that Plaintiff's Counsel may have not reviewed the Offer of Judgment until the morning of October 5, 2016, does not render it untimely.

The Court OVERRULES Plaintiff's Objections to Defendant's Rule 68 Offer of Judgment.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: October 17, 2016

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 17, 2016, by electronic and/or ordinary mail.

S/Jennifer McCoy
Case Manager